

NEW BUSINESS:

- On a motion made by Trustee Morales and seconded by Secretary Spindel:
“Appoint Attorney Jeff Goodloe of *Puchalski, Goodloe, Marzullo, LLP* as Hearing Officer.”

MOTION CARRIED UNANIMOUSLY

- ✓ *Disability Pension Hearing of Bethany Foy.*
- ✓ *Meeting is to be transcribed by transcriptionist, Michelle N. Marvin. See attached, Appendix B.*
- ✓ *Hearing will re-convene at a later date after a deposition is completed of Dr. Primus.*

ADJOURNMENT:

- On a motion made by Trustee Garza and seconded by Secretary Spindel:
“Adjournment at 2:30 p.m.”

MOTION CARRIED UNANIMOUSLY

Kevin Bramwell, President

Date

Ronald Spindel, Secretary

Date

Prepared by: Meghan Strimel

Approved at the 04/17/2017 board meeting

Bolingbrook Firefighter's Pension Fund
Special Meeting – June 21, 2016
Disability Hearing of B. Foy

Public Present

Name	Address
1. Justin BALZER	
2. Jimmy CHAU	
3. Karen Foy	
4. George Foy	
5. F. Ritter	
6. Tom Ross	
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COUNSEL PRESENT:

PUCHALSKI, GOODLOE & MARZULLO, LLP, by
MR. JEFFREY GOODLOE
2100 Sanders Road, Suite 110
Northbrook, Illinois 60062
(847) 666-5680
jgoodloe@pgm-law.com
on behalf of the Bolingbrook
Firefighters' Pension Board;

LAW OFFICES OF THOMAS W. DUDA, by
MR. THOMAS W. DUDA
330 West Colfax Street
Palatine, Illinois 60067
(847) 577-2470
thomasduda@zipduda.com
on behalf of the Applicant.

ALSO PRESENT:

MS. MEGHAN STRIMEL, Recording Secretary.

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EXAMINATION OF

BETHANY M. FRISBY

D C RD RC

By Mr. Duda

12

By Mr. Goodloe

51

By the Board

91

By Mr. Duda

96

EXHIBITS MOVED INTO EVIDENCE

Board Exhibits 1 through 16

10

Board Exhibits 18 and 19

10

Applicant Exhibits 1 through 6

11

1 MR. BRAMWELL: All right. We'll call
 2 the special meeting of the Bolingbrook Firemen's
 3 Pension Fund to order at 1:30 p.m., Tuesday,
 4 June 21st.
 5 Meghan, will you please do a roll call
 6 for us?
 7 MS. STRIMEL: President Bramwell?
 8 MR. BRAMWELL: Here.
 9 MS. STRIMEL: Secretary Spindel?
 10 MR. SPINDEL: Here.
 11 MS. STRIMEL: Trustee Garza?
 12 MR. GARZA: Here.
 13 MS. STRIMEL: Trustee Morales?
 14 MR. MORALES: Here.
 15 MS. STRIMEL: Trustee Jostes?
 16 MR. JOSTES: Here.
 17 MR. BRAMWELL: All right. No. 3,
 18 public comments. Any comments from the public?
 19 We will move to No. 4, the disability
 20 pension hearing of Bethany Foy. I need a motion
 21 to make Jeff Goodloe the hearing officer for this
 22 portion of the meeting.
 23 MR. MORALES: So moved.
 24 MR. SPINDEL: Second.

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1 MR. BRAMWELL: Motion by Morales,
 2 seconded by Ron Spindel. All in favor.
 3 (WHEREUPON, all Board Members
 4 responded aye.)
 5 MR. BRAMWELL: All opposed.
 6 MR. GOODLOE: Okay. Thank you very
 7 much, everybody.
 8 This hearing is being conducted
 9 pursuant to Article 4 Section 112 of the Illinois
 10 Pension Code to adjudicate the disability pension
 11 application of Bethany Foy who is the applicant
 12 in this case.
 13 The applicant was previously sent a
 14 notice of hearing advising her of these
 15 proceedings on this date and advising her of her
 16 right to be represented by legal counsel, to
 17 present evidence and to respond to any evidence
 18 before the pension board.
 19 Will the applicant please identify
 20 herself for the record?
 21 MS. FRISBY: Bethany Frisby, F-r-i-s-b-y.
 22 MR. DUDA: Thomas Duda of Palatine,
 23 Illinois. I'm an attorney. I represent Ms. Foy,
 24 Firefighter Foy.

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1 MR. GOODLOE: Thank you very much.
 2 Do you both acknowledge receipt of the notice of
 3 hearing for today and are you both ready to
 4 proceed today?
 5 MS. FRISBY: Yes.
 6 MR. DUDA: Yes.
 7 MR. GOODLOE: Okay. First thing, I
 8 notice Mr. Duda that your client only applied for
 9 a line-of-duty disability pension. That's the
 10 only box that's marked.
 11 Would you like to amend the
 12 application to request in the alternative a
 13 not-in-duty disability pension without prejudice
 14 to the claim for a line-of-duty disability pension?
 15 MR. DUDA: Only on the condition that
 16 it would be without prejudice. But by so doing,
 17 we're not suggesting that it would be a
 18 not-in-the-line of duty application.
 19 MR. GOODLOE: Understood. Very well.
 20 The pension board will allow that amendment
 21 without prejudice to your claim for a
 22 line-of-duty disability pension.
 23 Okay. The procedures to be utilized
 24 in this case as follows: And there are 12, so

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1 bear with me.
 2 Number one: The applicant has the
 3 burden of proving her entitlement to a disability
 4 pension.
 5 Number two: As a preliminary matter,
 6 the Board will introduce as part of the record
 7 documentation that it has obtained under Section
 8 4-112 of the pension code.
 9 Number three: The applicant will
 10 have the opportunity to make legal objections to
 11 any of this documentation or evidence.
 12 Number four: The applicant may make
 13 an opening statement.
 14 Number five: The applicant may then
 15 present evidence and testimony in support of her
 16 disability claim.
 17 Number six: The Board and its legal
 18 counsel will have the opportunity to
 19 cross-examine the applicant and any applicant
 20 witnesses.
 21 Number seven: At the close of the
 22 applicant's case, the Board will have the
 23 opportunity to present any evidence and testimony
 24 relevant to this matter.

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1 Number eight: The applicant will
2 have the opportunity to cross-examine the Board's
3 witnesses, if any.

4 Number nine: Rulings on legal
5 matters will made by the Board's legal counsel
6 subject to the Board's review.

7 Number ten: In the event that this
8 hearing cannot be completed on this date, the
9 matter shall be continued to dates agreeable to
10 all parties until it has been completed.

11 Number eleven: At the conclusion of
12 the hearing, the applicant may either file a post
13 hearing brief or make a closing argument or do
14 both.

15 And number twelve: After the Board
16 votes, it will then render a written decision and
17 order that will become the final administrative
18 decision as to the disability claim for purposes
19 of the administrative review law. And that's
20 citing Howe versus the Retirement Board of the
21 Firefighters' Annuity and Benefit Fund. I will
22 omit the citation.

23 Any questions regarding those
24 procedures, Mr. Duda?

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1 MR. DUDA: No.

2 MR. GOODLOE: Okay. Pension Board
3 Exhibits 1 through 19 have been marked. They
4 have been tendered to the applicant's attorney as
5 well as to the trustees.

6 Any objections from the applicant to
7 the admission into the evidence of Pension Board
8 Exhibits 1 through 19?

9 MR. DUDA: With the exception of
10 Exhibit 17 beginning on page 2543, we have no
11 objection.

12 With respect to Board Exhibit No. 17,
13 the petitioner -- or the applicant asks the
14 opportunity to cross-examine the witness and
15 asserts the hearsay objection to the written report.

16 MR. GOODLOE: Okay. And you did
17 request that the pension board issue a subpoena
18 for you to serve on Dr. Primus, correct?

19 MR. DUDA: Dr. Primus was subpoenaed.
20 I believe the date was May 21, 2016.

21 Subsequently they contacted our
22 office that he has a medical obligation. I don't
23 know if it's surgery or what the -- what the
24 procedure he's engaged in. We -- Scott Moran

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1 from my office e-mailed you indicating the doctor
2 could not be here and asking for alternative
3 dates. He was subpoenaed over a month before
4 this hearing by personal service with a witness
5 fee tendered.

6 MR. GOODLOE: Okay. Has Dr. Primus'
7 office provided you with any dates in which he is
8 available to testify?

9 MR. DUDA: They have not. And we
10 have called them three days a week for the last
11 three weeks asking for dates and sent e-mails,
12 but I called my office 10 minutes before I sat in
13 here and they still had not gotten back to us.

14 MR. GOODLOE: Okay. Pension Board
15 Exhibits 1 through 16 and 18 through 19 will
16 admitted into evidence without further
17 authentication or foundation.

18 Pension Board Exhibit 17, your
19 objection is sustained at this particular time,
20 but what we're going to do is cure the objection
21 either by bringing Dr. Primus in to testify or
22 setting up an evidence deposition. Okay?

23 MR. DUDA: Yes.

24 MR. GOODLOE: All right.

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1 Additionally, I have received documents that are
2 marked as Applicant's Exhibits 1 through 6 that
3 you tendered to me today. Actually you tendered
4 1 through 4 to me on June 17th I believe from
5 Mr. Moran. I received 5 and 6 today.

6 Are you requesting that Applicant
7 Exhibits 1 through 6 be admitted into evidence?

8 MR. DUDA: We are.

9 MR. GOODLOE: Applicant Exhibits 1
10 through 6 are admitted into evidence without
11 further authentication or foundation.

12 Any other evidentiary issues at this
13 time?

14 MR. DUDA: No other evidentiary issues.

15 MR. GOODLOE: Okay. Are you ready to
16 proceed, Mr. Duda?

17 MR. DUDA: I am.

18 MR. GOODLOE: Would you like to make
19 an opening statement?

20 MR. DUDA: We waive opening statement.

21 MR. GOODLOE: Call your first witness.

22 MR. DUDA: I'm going to call the
23 applicant.

24 MR. GOODLOE: Okay. If we could have

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1 her sworn, please.
 2 (WHEREUPON, the witness was duly sworn.)
 3 BETHANY M. FRISBY,
 4 called as a witness herein, having been first
 5 duly sworn on oath, was examined and testified as
 6 follows:
 7 DIRECT EXAMINATION
 8 BY MR. DUDA:
 9 Q In a loud voice, state your full name
 10 for the record and spell your last name for the
 11 reporter.
 12 A Bethany May Frisby, F-r-i-s-b-y.
 13 Q And at the time of the injury on
 14 December 28, 2013, what was your last name?
 15 A Foy, F-o-y.
 16 Q So Foy is your maiden name, is that
 17 correct?
 18 A Correct.
 19 Q Where do you live excluding the
 20 street address?
 21 A Bolingbrook, Illinois.
 22 Q And what is the -- what is the date
 23 of marriage?
 24 A [REDACTED].
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1 Q Your husband's full name?
 2 A John Lewis Frisbee.
 3 Q Spell Lewis.
 4 A L-e-w-i-s.
 5 Q And there are no children of this
 6 marriage, correct?
 7 A No.
 8 Q What's your date of birth?
 9 A [REDACTED].
 10 Q And that makes you how old today?
 11 A 33.
 12 Q And on December 28, 2015, by whom
 13 were you employed?
 14 A The Village of Bolingbrook.
 15 Q And what was your rank at that time?
 16 A Firefighter paramedic.
 17 Q When were you first hired by the
 18 Village of Bolingbrook?
 19 A June 9, 2006.
 20 Q And what position were you hired into?
 21 A Firefighter paramedic.
 22 Q Before you were hired by the village,
 23 had you performed fire suppression or emergency
 24 medical service work for any other entity?
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1 A EMS for Platinum Ambulance.
 2 Q And where is Platinum Ambulance located?
 3 A When I worked for them, it was in
 4 Naperville, Illinois.
 5 Q And during what period of time did
 6 you work there?
 7 A March 2006 to May 2006.
 8 Q And what was your job title there?
 9 A Paramedic.
 10 Q And what were your -- just generally
 11 speaking, what were your duties as a paramedic
 12 for the ambulance company?
 13 A Perform advanced life support,
 14 cardiac monitoring, administering drugs --
 15 administering drugs, patient transport, spinal
 16 immobilization, wound care.
 17 Q At the time you worked for Platinum,
 18 were you already a certified paramedic?
 19 A Yes.
 20 Q Did you sustain any injuries at Platinum?
 21 A I did. I --
 22 Q What was hurt?
 23 A I strained my right shoulder.
 24 Q Are you right or left-handed?
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1 A Right.
 2 Q Did you miss any time from work?
 3 A About two weeks.
 4 Q After the two weeks, did you return
 5 to work?
 6 A Yes.
 7 Q Was any surgery performed?
 8 A No.
 9 Q Just generally, what was the nature
 10 of the treatment to your right shoulder?
 11 A Physical therapy.
 12 Q Who was your doctor?
 13 A I don't remember.
 14 Q When you were hired by the -- or
 15 strike that.
 16 Did you perform emergency medical
 17 services for any other entity other than Platinum?
 18 A No.
 19 Q Before you were hired by the village,
 20 had you received any treatment to your left
 21 shoulder?
 22 A No.
 23 Q Had you had any injuries to your left
 24 shoulder?
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1 **A** No.
 2 **Q** When you were hired by the village,
 3 did you have to undergo any type of examination?
 4 **A** Yes.
 5 **Q** Could you describe the examinations
 6 you had to pass?
 7 **A** There was a medical exam, blood work,
 8 blood pressure, just basic vitals. And then we
 9 had a physical exam where we were at Edward
 10 Hospital. They had -- we had to drag a dummy,
 11 complete a section of the Keiser sled machine
 12 which is a platform with a weighted like box in
 13 the middle of it and you would have to use the
 14 sledge hammer to move the box from one end to the
 15 other. We had to climb ladders with weights.
 16 And that's all I remember.
 17 **Q** And was a medical examination
 18 performed where a doctor actually examined your
 19 body?
 20 **A** I don't remember.
 21 **Q** Did you pass?
 22 **A** Yes.
 23 **Q** And were there any qualifications
 24 about your passing, any reservations?

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1 **A** No.
 2 **Q** Have you been a firefighter paramedic
 3 between 2006 and December 28, 2013?
 4 **A** Yes.
 5 **Q** Aside from the -- which we're going
 6 to go into. Aside from the duties of firefighter
 7 and paramedic, have you had any additional
 8 training or additional assignments during your
 9 career with the village?
 10 **A** No.
 11 **Q** Hazmat or anything like that?
 12 **A** No. Peer fitness trainer.
 13 **Q** What does that mean?
 14 **A** I had -- we did not have a program
 15 set up. I had gone to the certification course.
 16 And we were in the process of trying to get a
 17 program established around the time I was hurt.
 18 **Q** And what was this called?
 19 **A** Peer fitness trainer.
 20 **Q** P-e-e-r?
 21 **A** Yes.
 22 **Q** And during your career with the
 23 village, what were your hours of employment?
 24 **A** We would start at 7:00 a.m. one day

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1 and finish at 7:00 a.m. the next. We worked 24
 2 hours on, 48 hours off.
 3 **Q** Now, in the record, there is a
 4 written job description. And I have offered and
 5 it's been admitted into evidence the 2013 job
 6 description for firefighter paramedic. It's
 7 admitted into evidence as Applicant Exhibit 5.
 8 Have you seen that document before?
 9 **A** Yes.
 10 **Q** And would you say that that's
 11 generally accurate of what duties you would have
 12 to perform?
 13 **A** Yes.
 14 **Q** I'd like you for the record, not for
 15 the Board, but for making a complete transcript,
 16 I want you to elaborate the essential functions
 17 that are listed on page 2 of Applicant Exhibit 5.
 18 Under essential functions, No. 1, it
 19 says, respond to fire alarms and other emergency
 20 calls. Could you describe what physical duties
 21 you would perform in responding to fire alarms?
 22 **A** For fire alarms, we would get dressed
 23 in our protective -- personal protective
 24 equipment which would be our bunker gear. We

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1 have a bunker coat which is a made out of
 2 fire-resistive material, bunker pants which are
 3 aided in being held up by suspenders, our fire
 4 boots.
 5 Depending on my position on the rigs,
 6 I would either be driving an engine to the scene,
 7 riding in the engine or driving or riding in the
 8 ambulance in our bunker gear.
 9 When we get to the scene, we finish
 10 gearing up with our -- I would put my SCBA on
 11 along with my helmet and my air mask, grab any
 12 additional tools that we need for the particular
 13 job.
 14 **Q** Okay. When you say SCBA, for the
 15 record what does that stand for?
 16 **A** Self-contained breathing apparatus.
 17 **Q** And the self-contained breathing
 18 apparatus is worn how? What part of your body?
 19 **A** Over -- on your back over your
 20 shoulders like a backpack.
 21 **Q** And it's strapped to your back?
 22 Strapped -- your arms are through straps?
 23 **A** Correct.
 24 **Q** And what does the retardant gear

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1 weigh?

2 **A** It varies.

3 **Q** What's the range?

4 **A** The equipment could be anywhere

5 between -- all of our protective equipment could

6 be between 50 and 70 pounds.

7 **Q** And at a fire scene, would you be

8 wearing that equipment during the entire time

9 you're there?

10 **A** Yes.

11 **Q** All right. At a fire scene wearing

12 that equipment, what physical duties would you

13 perform?

14 **A** I'd pull hose from the engine, carry

15 tools, carry ladders, raise ladders, advance hose

16 line.

17 **Q** Could you describe -- when you say,

18 "pull hose," would you describe the hose in terms

19 of its length and in diameter and weight?

20 **A** We have various size hoses from an

21 inch and three-quarters to two-and-a-half inches

22 to five inches.

23 We have uncharged and charged hose

24 line. The charged hose lines would be full with

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1 water adding additional weight to it.

2 We could pull any amount of lengths

3 depending on closeness to the hydrant, closeness

4 to the scene. Our preconnects are a couple

5 hundred feet that we would be pulling off of the

6 engine.

7 **Q** Now, on Exhibit 5, page 2, paragraph

8 2, it says, based on the size of the fire he or

9 she selects the correct hoses, nozzles and equipment

10 tools for firefighting evolutions. Could you

11 elaborate how you would use these various

12 diameter hoses in performing that essential

13 function?

14 **A** Do you want me to go into like

15 offensive attack?

16 **Q** Yes.

17 **A** Okay.

18 **Q** Well, I'd like you to do both.

19 **A** Preconnects most of the time we would

20 take into interior. Those are the inch and

21 three-quarters. Those could be up to 250 feet.

22 And we would have to hump that hose throughout

23 the house depending on the location of the fire.

24 The five inch is supply line from

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1 engine to engine or hydrant to engine.

2 Two and a half, you know, we could --

3 a lot of times it's mostly for exterior

4 putting -- you could do a street loop and sit on

5 it or you could have a couple people holding it

6 for fire attack.

7 **Q** Okay. You'll have to explain what a

8 street loop is.

9 **A** You take the nozzle. You make a loop

10 out of the hose. You put the nozzle end of the

11 hose under the loop to secure the placement of

12 the nozzle so that one person can handle the fire

13 attack with the hose.

14 **Q** And in doing that function, do you

15 need the use of both of your arms?

16 **A** Yes.

17 **Q** And does that involve pulling weights

18 or lifting weights?

19 **A** To be able to physically do that job?

20 **Q** Yes.

21 **A** Yes.

22 **Q** Okay. Could you elaborate how you

23 would use your arms in accomplishing that?

24 **A** Dragging the hose, you'd have to lift

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1 the hose depending on the location, moving it to

2 another location after it's been charged.

3 **Q** All right. Calling your attention to

4 paragraphs 4 and 5, they're read together,

5 creates openings in buildings for ventilation or

6 for means of entrance and egress with an ax,

7 chisel, crowbar, electric saw or other power

8 equipment. Positions and claims ladders to gain

9 access to upper levels of building or to assist

10 individuals from burning structures. Could you

11 elaborate physically what you would do in

12 accomplishing those tasks?

13 **A** I'd have to climb a ladder to get to

14 the roof for ventilation and either cut a hole in

15 the roof with power tools or with an ax.

16 Positioning ladders, we have

17 different size ladders with different fly number

18 of sections that we would have to raise.

19 **Q** What would the range of the size of

20 the ladders be and their weight?

21 **A** We have -- for -- we have the attic

22 ladder. I have no idea. It's been so long. We

23 have a 12 foot, 24 foot. I think we have a 35

24 foot. I think that one was a three fly. And we

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1 would have to position it and then raise it hand
 2 over hand to bring it into position.
 3 **Q** Okay. And you indicated you would
 4 climb roofs and cut a hole in the roof. What
 5 type of tools would you use?
 6 **A** Chain saw, K12, an ax, sledge hammer.
 7 You need to be able to get in there with an ax in
 8 case any of the power tools fail.
 9 **Q** Okay. In either extinguishing a fire
 10 inside the structure or ventilating, would there
 11 be occasion for you to have to rescue anyone in
 12 the house?
 13 **A** Yes.
 14 **Q** And these functions that you
 15 described, would you practice these functions?
 16 **A** Yes.
 17 **Q** And could you describe what if any
 18 training you've had in terms of dragging victims
 19 from a burning house?
 20 **A** The fire academy makes you complete
 21 several evolutions for that. We do department
 22 training with dummies that we need to, you know,
 23 drag from a location.
 24 **Q** Okay. Now, you would also respond to
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1 emergency medical situations, is that correct?
 2 **A** Yes.
 3 **Q** Could you describe physically what
 4 you would be -- what you would do on an emergency
 5 medical scene?
 6 **A** If we -- I could have a patient that
 7 weighs up to 355 pounds. We would have to put
 8 them in a stair chair or the cot or a backboard,
 9 carry them up or down flights of stairs to the
 10 ambulance, lift them into the ambulance, carry
 11 our EMS bags, perform CPR.
 12 **Q** Did you respond to accident scenes?
 13 **A** Yes.
 14 **Q** And what physically would you do at
 15 an accident scene?
 16 **A** We would be wearing our bunker gear
 17 for that. A lot of times you could be inside the
 18 vehicle maintaining C spine for the patient. You
 19 could also be extricating the patient from a
 20 vehicle using hydraulic tools.
 21 **Q** And would you have to use your arms
 22 to accomplish extrication of the victim?
 23 **A** Yes.
 24 **Q** And would you physically have to lift
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1 the victim out of the vehicle?
 2 **A** Yes.
 3 **Q** Now, in the records, you had been off
 4 of work for some period of time before
 5 December 28, 2013, in the year 2008. Did you
 6 have an injury to some part of your body in 2008?
 7 **A** I sprained my SI joints.
 8 **Q** Do you recall what month that was?
 9 **A** I think January.
 10 **Q** And did you receive medical care for
 11 that?
 12 **A** I did.
 13 **Q** Did any of the medical care for your
 14 SI joint involve any treatment to your left
 15 shoulder?
 16 **A** No.
 17 **Q** And could you describe what the
 18 treatment was to your SI joint?
 19 **A** I underwent physical therapy and I
 20 also had cortisone injections into my spine.
 21 **Q** About how long were you off of work?
 22 **A** I think four months.
 23 **Q** Did you return to work?
 24 **A** Yes.
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1 **Q** And how is it that you sprained your
 2 SI joints?
 3 **A** I was moving a patient from our
 4 stretcher to the hospital cot and I didn't put
 5 the IV bar down -- the pole down and I twisted
 6 moving the backboard around the pole.
 7 **Q** And did you file a workers'
 8 compensation claim for the 2008 injury?
 9 **A** No.
 10 **Q** So your bills were paid, you were
 11 paid and then you returned to work?
 12 **A** Yes.
 13 **Q** And you received no other money for
 14 that injury?
 15 **A** No.
 16 **Q** Calling your attention to
 17 December 28, 2013. You've already testified that
 18 your shift starts at 7:00 in the morning, is that
 19 correct?
 20 **A** Yes.
 21 **Q** I'm showing you now a page from the
 22 collective bargaining agreement which I've marked
 23 as Applicant Exhibit No. 6 article 10, hours of
 24 work. Do you see that?
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1 **A** Yes.
 2 **Q** Does this collective bargaining
 3 agreement prescribe the time that you start work?
 4 **A** Yes.
 5 **Q** And the time of start is what again?
 6 **A** 7:00 a.m.
 7 **Q** And at 7:00 a.m., where are you
 8 supposed to be?
 9 **A** We are supposed to be in the station
 10 in our uniforms ready to go.
 11 **Q** Okay. So it's not sufficient to be
 12 pulling up to the door at 7:00 a.m.?
 13 **A** No.
 14 **Q** Okay. Calling your attention to
 15 reporting for work that day, about what time did
 16 you arrive at work?
 17 **A** About 6:40 a.m.
 18 **Q** And could you describe for the record
 19 what transpired when you arrived to work?
 20 **A** I pulled into the staff parking lot
 21 in the back of station 2. I parked my vehicle.
 22 I was getting out of my vehicle and I slipped on
 23 black ice. I struck my left scapula, the back of
 24 my shoulder on the running board, I think that's

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1 what you call it, on the bottom of my vehicle.
 2 And then I got up and walked over to the door to
 3 go into work.
 4 **Q** When you say, "staff parking lot,"
 5 was this lot on the premises of the station?
 6 **A** Yes.
 7 **Q** And what station was it?
 8 **A** Fire station 2.
 9 **Q** And was the area that you parked in
 10 designated for firefighters?
 11 **A** It's I guess unwritten rule. There
 12 are no firefighter only parking signs. There is
 13 a like public area of parking on the side, but
 14 the staff always parks in the back of station 2.
 15 **Q** And that's where you always parked?
 16 **A** Yes.
 17 **Q** And that's where all the firefighters
 18 park?
 19 **A** Yes.
 20 **Q** And this lot is immediately adjacent
 21 to the station and is part of the station complex?
 22 **A** Yes.
 23 **Q** Okay. When you fell and hit your
 24 scapula, what did you notice about yourself?

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1 **A** It was throbbing for about 10
 2 minutes. I didn't notice really anything else.
 3 **Q** And what happened later that morning?
 4 **A** I went into the station. I changed.
 5 I got ready for work. We sat around the dining
 6 room table and exchanged reports from the day
 7 before.
 8 I went downstairs. I was assigned to
 9 drive the medic 2, the ambulance. I was -- I did
 10 my morning checks on the ambulance which since I
 11 was driving was the mechanical checks of the
 12 ambulance.
 13 **Q** And what else did you do after that
 14 was over?
 15 **A** After that, we were told by our
 16 Lieutenant Jason Pech that we were ordered to
 17 install the GearGrid gear lockers on the bay
 18 floor.
 19 **Q** And could you spell Pech? Is it
 20 P-e-c-h?
 21 **A** Yes.
 22 **Q** Is he your supervisor?
 23 **A** Yes. He's my lieutenant.
 24 **Q** And did you do that?

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1 **A** Yes.
 2 **Q** If you had refused to do that, would
 3 that have been insubordination?
 4 **A** Yes.
 5 **Q** So was it a direct order?
 6 **A** Yes.
 7 **Q** And these -- exactly what did you do?
 8 **A** Lieutenant Pech, Firefighter Bovyn
 9 and Firefighter Joe Jay would install the backs
 10 of the lockers to the wall. I would carry over
 11 the different pieces from the -- where they were
 12 being stored on the -- in like the back room or
 13 whatever to the bay floor. And then I would
 14 install the doors, the fronts of the lockers onto
 15 the bases.
 16 **Q** Could you describe the size of these
 17 doors and what you had to do to install?
 18 **A** They're probably about six foot tall,
 19 two feet wide. I would have to hang -- well,
 20 carrying them, obviously I was carrying them from
 21 one spot to another.
 22 **Q** And how far did you carry them?
 23 **A** Maybe 20 to 50 feet. And then I
 24 would have to line up the hinges of the doors and

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1 make sure and install them for each locker.
 2 **Q** And about how long did you spend
 3 doing this activity?
 4 **A** That was a couple hours.
 5 **Q** What did you notice about yourself?
 6 **A** After a while, I noticed a lot of
 7 achiness and tiredness, fatigue in my left
 8 shoulder.
 9 I am right -- right-arm dominant, so
 10 I just thought it was from using muscles that I
 11 hadn't normally used by -- from holding the doors
 12 out in front of me for so long. And it just
 13 seemed to progress throughout the afternoon.
 14 **Q** Did you do any calls during that
 15 afternoon?
 16 **A** We ended up getting some sort of fire
 17 call because we had to dress in our bunker gear.
 18 So when we caught the call, I put my bunker pants
 19 and my bunker coat on. I was driving the
 20 ambulance. On the way to the call, my arm was
 21 bothering me more. There was more pain and
 22 achiness. We got returned from the call. And I
 23 looked over at my partner, Joe Jay, and I told
 24 him, I said, I can barely lift my arm up, it's so
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1 weak.
 2 And at that point he radioed over to
 3 engine 2 and told them to pull over into a
 4 parking lot. We pulled over into one of the
 5 hotel parking lots and told Lieutenant Pech that
 6 I couldn't lift my arm up. And he ordered me to
 7 go to the ER.
 8 **Q** Okay. So when -- when the radio
 9 transmission was made, you had not gotten back to
 10 the station?
 11 **A** No. We were still south of 55 on 53.
 12 **Q** And you were the driver of the
 13 ambulance?
 14 **A** Yes.
 15 **Q** And could you spell for the reporter
 16 Jay Joe?
 17 **A** Joe Jay. Firefighter Joe, I think
 18 it's Joseph, J-a-y.
 19 **Q** And were you taken to Adventis
 20 Bolingbrook Hospital?
 21 **A** Yes. I drove myself.
 22 **Q** In the ambulance?
 23 **A** Yes.
 24 **Q** Was anyone with you?
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1 **A** My partner, Joe Jay.
 2 **Q** And you were seen in the emergency
 3 room, is that correct?
 4 **A** Yes.
 5 **Q** And what were you noticing about
 6 yourself by the time you got to the emergency room?
 7 **A** There was -- the pain was just
 8 progressing. I had no strength whatsoever in my
 9 arm.
 10 **Q** And which arm are we talking?
 11 **A** My left arm. Sorry.
 12 **Q** And where was the pain? What part of
 13 your left arm?
 14 **A** The front of my left shoulder
 15 radiating down the front of the arm and across
 16 towards my clavicle.
 17 **Q** And what treatment did you get at the
 18 emergency room?
 19 **A** They gave me prescriptions for
 20 anti-inflammatories and pain meds. They X-rayed
 21 me. And they also gave me a sling. They ordered
 22 me not to return to work until I followed up with
 23 the orthopedic surgeon.
 24 **Q** And where did you go from the hospital?
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1 **A** After the hospital, I went home.
 2 **Q** Okay. And was this before your shift
 3 had ended?
 4 **A** Yes.
 5 **Q** If this had not occurred, how much
 6 more of your shift did you have to serve before
 7 it was over?
 8 **A** I think 16 hours.
 9 **Q** So you went home before midnight?
 10 **A** Yes.
 11 **Q** Did the emergency room refer you for
 12 any follow-up treatment?
 13 **A** Yes. For orthopedic follow-up with
 14 Dr. --
 15 **Q** Sauer?
 16 **A** Yes. With Rezin Orthopedics.
 17 **Q** And where did you get the name of
 18 Dr. Sauer, S-a-u-e-r?
 19 **A** It was the referral on my discharge
 20 papers.
 21 **Q** And did Dr. Sauer see you two days
 22 after this event?
 23 **A** Yes.
 24 **Q** And what did he do for you?
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1 **A** He wanted me off of work. He gave me
2 work restrictions for a week to rest my left arm,
3 shoulder more, and continue with the
4 anti-inflammatories and pain meds.

5 **Q** Did you continue using the sling?

6 **A** I don't remember.

7 **Q** Did he order any radiology studies?

8 **A** After one or two more appointments,
9 he ordered an MR arthrogram of my left shoulder.

10 **Q** And would that -- was that done on
11 January 21, 2014?

12 **A** Yes.

13 **Q** And that was -- that was not in a
14 hospital setting. That was at a --

15 **A** No. That was a medical office
16 building where Rezin Orthopedics is at in
17 Bolingbrook.

18 **Q** And Resin is R-e-z-i-n, correct?

19 **A** R-e-i-z-i-n.

20 **Q** After you had the MRI, what treatment
21 did Dr. Sauer prescribe?

22 **A** Physical therapy three times a week.

23 **Q** And was that done at ATI South?

24 **A** Bolingbrook South.

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1 **Q** And the name of the place you had the
2 MRI was Molecular Imaging, correct?

3 **A** Yes.

4 **Q** And what did you notice about
5 yourself during physical therapy?

6 **A** It was a slow recovery. It took
7 several months before I started noticing
8 improvement.

9 I still had a lot of pain. And at
10 one point the -- after a couple months, the
11 pain -- the initial pain from injury came back
12 and it hurt worse.

13 **Q** When the pain got worse, what did you
14 do?

15 **A** My physical therapist and I both
16 talked to Dr. Sauer. He gave me a cortisone
17 injection. I wasn't happy with, you know, the
18 treatment with him, so I got a second opinion
19 with Dr. Marra.

20 **Q** And that's Guido, G-u-i-d-o, Marra,
21 is that correct?

22 **A** Yes.

23 **Q** Now, his office is at Loyola or
24 Northwestern?

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1 **A** He's out of Northwestern and he does
2 clinic time at Elmhurst Hospital.

3 **Q** So you did not see him at Northwestern?

4 **A** No. I saw him at Elmhurst.

5 **Q** And what did Dr. Marra do for you?

6 **A** Dr. Marra gave me a cortisone
7 injection in a different location. He said there
8 was different placement of the cortisone that
9 caused different effects, so he gave me a
10 cortisone injection in a different location in my
11 left shoulder and he also sent me for an MR
12 arthrogram at Edward -- or Elmhurst Hospital.

13 **Q** And that second MR arthrogram was on
14 March 27, 2014, correct?

15 **A** Yes.

16 **Q** And after Dr. Marra ordered another
17 MR arthrogram of your shoulder, what treatment
18 did he prescribe?

19 **A** He wanted to see if the cortisone
20 injection in the new location helped. When it
21 didn't, we discussed surgery to repair the
22 cartilage tear in my shoulder.

23 **Q** Were you getting any type of physical
24 therapy at this time?

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1 **A** Yes. When we made the decision to do
2 surgery, he discontinued physical therapy.

3 **Q** And was surgery in fact performed on
4 your left shoulder?

5 **A** Yes. July 2, 2014.

6 **Q** And that was at Elmhurst Hospital?

7 **A** Yes.

8 **Q** And was that done as an outpatient?

9 **A** Yes.

10 **Q** And was that arthroscopic surgery?

11 **A** Yes.

12 **Q** When you left the hospital, were you
13 wearing any type of appliance?

14 **A** Yes. I had a sling and a -- like an
15 ice machine already wrapped around my arm.

16 **Q** Could you describe how this, quote,
17 ice machine worked?

18 **A** There were -- it wrapped all the
19 way -- there were sections of it that wrapped
20 around your arm. And then it's got a cord to
21 like a cooler. And the cooler -- you put ice
22 water in there and you plug it in and it
23 circulates the ice water through the covering of
24 your arm to help with inflammation and pain.

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1 **Q** Now, from December 28, 2013, through
2 the surgery of July 2, 2014, did you return to
3 work for the village in any capacity?

4 **A** No.

5 **Q** So you didn't do your regular job and
6 you didn't do light duty?

7 **A** No.

8 **Q** Okay. How long did you continue
9 wearing the sling?

10 **A** Six weeks.

11 **Q** And how long did you continue using
12 this icing device?

13 **A** Six weeks probably. I also received
14 a cold pack -- a shoulder cold pack from physical
15 therapy that I still use. So it fits all the way
16 around your arms, up your shoulder. And I still
17 use that.

18 **Q** Now, did you get physical therapy
19 while you were still using this ice device?

20 **A** Yes.

21 **Q** And was the physical therapy at ATI
22 Bolingbrook South?

23 **A** Yes.

24 **Q** How often were you going for therapy?

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1 **A** The first four weeks after surgery, I
2 did not do any. And then from then on out, it
3 was three times a week.

4 **Q** And how long did that last?

5 **A** Through January 2015.

6 **Q** Okay. Were you still seeing
7 Dr. Marra from August the 1st, 2014, through the
8 1st of January 2015?

9 **A** Yes.

10 **Q** And what was he doing for you?

11 **A** I was having I think abnormal excessive
12 pain and limited range of motion, severe
13 stiffness to my left shoulder. He put me on a
14 month of anti-inflammatories.

15 When it didn't help, he gave me
16 another cortisone injection. And then after four
17 or six weeks, he gave me a second cortisone
18 injection.

19 **Q** And where -- where were these
20 injections administered, into what part of your
21 body?

22 **A** My left shoulder.

23 **Q** Would it be the place that the first
24 one that Dr. Marra did or did he try a different

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1 spot?

2 **A** I think the same.

3 **Q** And how did the injections help you?

4 **A** They didn't.

5 **Q** And what were you noticing about
6 yourself at that time?

7 **A** The pain and the weakness. The
8 weakness had gotten better with physical therapy.
9 Nowhere near my preinjury strength at all. But
10 the pain and the range of motion never improved.

11 **Q** And was there a time that the
12 physical therapy ended?

13 **A** He -- Dr. Marra gave me -- sent me
14 for the functional capacity evaluation. And with
15 that, he discontinued therapy.

16 **Q** And was the functional capacity
17 evaluation performed on February 2, 2015?

18 **A** Yes.

19 **Q** And after you had that evaluation,
20 what if anything did Dr. Marra do with respect to
21 your treatment?

22 **A** He told me that I had gone through
23 enough physical therapy to determine if I would
24 be able to improve more and continue on work

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1 hardening which I wasn't able to. And so he
2 discontinued my physical therapy and he gave me
3 work restrictions.

4 **Q** And did you take those work restrictions
5 to the village and attempt to return to work?

6 **A** Yes.

7 **Q** Calling your attention to a document
8 that's admitted into evidence as Applicant
9 Exhibit 4 and ask if you could identify that for
10 the Board.

11 **A** Yes, I can. I requested to receive
12 accommodations for my restrictions. And this is
13 the response saying that there are no
14 accommodations for me.

15 **Q** From December 28, 2013, through the
16 date on Applicant Exhibit 4, which was May 8,
17 2015, did you perform any work for the village?

18 **A** No.

19 **Q** And you never performed any light
20 duty for the village?

21 **A** No.

22 **Q** And by virtue of this letter, you
23 were not offered light duty?

24 **A** Correct.

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1 Q During the time you worked for the
2 village, were you aware of anybody in the fire
3 department who permanently was assigned a job
4 that did not involve fire suppression and
5 emergency medical service duties?

6 A No.

7 Q So there was no permanent light duty
8 position in the village?

9 A No.

10 Q Have you seen Dr. Marra since May of
11 2015?

12 A Yes.

13 Q And when did you last see Dr. Marra?

14 A June 2, 2016. I have another
15 appointment July 7, 2016.

16 Q And what were you noticing about
17 yourself June 2, 2016?

18 A Well, it took me two months to get
19 that appointment. So up until that appointment,
20 still I'm having more pain than previous. I have
21 sharp stabbing pain radiating from deep in my
22 armpit all the way down to my fingertips,
23 radiating across my left arm and bicep. My left
24 deltoid feels like it's a rock. I have weakness

1 still, limited range of motion and just chronic
2 pain and ache.

3 Q And what did Dr. Marra prescribe for
4 you to assist to relieve you of these symptoms?

5 A I am scheduled for an EMG on Friday
6 to determine if there are any issues with my
7 nerve conduction, if there's any impingement.
8 And depending on the results of that test, it
9 will dictate any further treatment.

10 Q Did he send you back to therapy?

11 A Not yet. He wants to wait for the
12 results of the EMG.

13 Q And at the present time as you go
14 about your daily activities, what do you notice
15 about yourself now?

16 A My lifestyle has completely changed.
17 It -- I don't really do my hair much anymore
18 because it hurts to hold the blow dryer or my
19 brush over my shoulders to do my hair.

20 A lot of time I go to sleep with
21 Lidocaine patches on my shoulders because I'm in
22 constant pain. I can't fall asleep due to it. I
23 can't get comfortable.

24 Wearing this jacket, which I'm about

1 to take off, any winter coats, anything like that
2 that puts any kind of pressure on my shoulder
3 pretty much makes my arm feel like dead weight.

4 Holding my one-year-old niece I can't
5 do for very long. I don't go running anymore
6 which I used to run up -- I used to do half
7 marathons. And I haven't been able to run in
8 over a year.

9 Carrying anything under my arm
10 against my body like newspaper or mail coming
11 into the house causes pain. I have limited range
12 of motion. Over my head.

13 I can't carry anything out in front
14 of me away from my body. Anything away from my
15 body causes instant pain and instant weakness and
16 my arm will be dead weight for several hours
17 after that. I'm sure there's more. I just --

18 Q Now, you were examined by three
19 doctors at the request of the pension board, is
20 that correct?

21 A Yes.

22 Q And calling your attention to
23 beginning on pages 777 of the record, that's the
24 first page of the report from ATI for a

1 functional capacity evaluation done on
2 February 2, 2015. Do you see that?

3 A Yes.

4 Q Okay. My first question is was the
5 location of the functional capacity evaluation
6 the same as where you had your therapy?

7 A No.

8 Q It's a different place?

9 A Yes.

10 Q And the person who had administered
11 the functional capacity evaluation, was that the
12 therapist that had worked on you during the year
13 and a half that you were under treatment?

14 A No. I never met him before.

15 Q And how long did the functional
16 capacity evaluation last?

17 A Several hours.

18 Q And could you go through beginning on
19 page 779 -- I'm sorry -- 780 what you physically
20 had to do to comply with these key functional
21 whole body assessment tests in terms of lifting.
22 What did you have to lift and how did you do it?

23 A The lifting would be like a milk
24 crate that they would add weights to. So you

1 would do -- they'd add the lowest amount of
2 weight, you do the -- depending on where -- you
3 could do from the floor to the chair or the chair
4 to the desk or vice versa.

5 When you did the first cycle, they'd
6 add more weight and then you would do it again.
7 And they would keep adding more weight until you
8 could no longer do that.

9 **Q** And did you lift these crates above
10 your waist at any time?

11 **A** I think, yeah, because the desk was
12 higher than my waist.

13 **Q** All right. What else was part of the
14 lifting exercise?

15 **A** There was a -- like a stick that they
16 would put -- I guess the best way to describe it
17 is like that little kid's toy where they have the
18 different rings around it that you could go from
19 the biggest to smallest. It was like that with a
20 handle. And they would put more weight on it and
21 you'd walk a certain distance and come back. And
22 that was just with one arm that you would do
23 that. And they would add more weight and then
24 you walk and come back, add more weight until you

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1 couldn't do it anymore.

2 **Q** And would they assess how much weight
3 you were carrying?

4 **A** Yes. They recorded how much each time.

5 **Q** Then on page 782, it talks about
6 balance, gait, kneeling and crawling. What did
7 they have you do for that?

8 **A** The toe walk is you walk on your tip
9 toes. The heel walk is they you have walk on
10 just your heels a certain distance. The heel-toe
11 walk is like the sobriety test, put your heels to
12 your toes and walk the distance. Kneeling, we
13 just knelt. Crawling, they'd have us crawl maybe
14 20 feet. I'm not sure.

15 **Q** And then there's a testing for
16 pushing and pulling?

17 **A** Uh-huh. That was --

18 **Q** You have to say yes or no.

19 **A** Yes, there was.

20 **Q** Okay. Could you describe what you
21 had to do for that?

22 **A** The milk crate would be on the desk
23 and you would just push the milk crate across the
24 desk and pull it back. And they would add --

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1 each time you pushed and pulled, they'd add --
2 actually you would push, he would bring it back,
3 then you'd push again, he'd add weight, you push
4 again.

5 And then with the pulling, he'd put
6 weight in, you pull it, he'd put it back to the
7 original position and then you'd pull again.

8 **Q** And the three examinations, how long
9 did the doctors spend examining you and measuring
10 your left shoulder motions, et cetera?

11 **A** About 10 to 20 minutes.

12 **Q** And was were any tests given by any
13 of the doctors relating to how much you could lift?

14 **A** No.

15 **Q** The problems that you described to
16 the Board that you've been having in your daily
17 activities, did you have those problems before
18 December 28, 2013?

19 **A** No.

20 **Q** When you came to work December 28,
21 2013, did you have any of those problems?

22 **A** No.

23 **Q** I have no further questions.

24 MR. GOODLOE: Thank you very much,

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1 Mr. Duda.

2 The Board's going to have an
3 opportunity to cross-examine the applicant as
4 well as myself.

5 Would you like to take a break or is
6 everybody okay to continue?

7 MR. DUDA: It's up to you.

8 THE WITNESS: I'm okay.

9 MR. GOODLOE: Let's take a couple
10 minute break because I have a lot of questions
11 and so I'd rather -- thank you.

12 (WHEREUPON, there was a short
13 recess taken.)

14 CROSS-EXAMINATION

15 BY MR. GOODLOE:

16 **Q** Okay. Back on the record. Can you
17 repeat your last name again? I'm sorry.

18 **A** Maiden or married?

19 **Q** Married.

20 **A** Married is Frisby, F-r-i-s-b-y.

21 **Q** Okay. My name is Jeff Goodloe. I'm
22 the attorney for the pension board. I'm going to
23 ask you some questions. And if you don't
24 understand a question that I ask, just let me

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1 know and I'll try to rephrase it. Do you
 2 understand?
 3 **A** Yes.
 4 **Q** And you've done a nice job of using
 5 verbal responses. So if you will continue that,
 6 I would appreciate it. Okay?
 7 **A** Okay.
 8 **Q** If at any time you need a break, just
 9 let me know. We can take a break. It's not a
 10 problem. Okay?
 11 **A** Okay.
 12 **Q** After I'm done asking questions, I'll
 13 open it up to the trustees and they will have an
 14 opportunity to ask some questions as well.
 15 **A** Okay.
 16 **Q** All right. So is it fair to say that
 17 you did not have any issues with your left
 18 shoulder prior to the incident on December 28th
 19 of 2013?
 20 **A** Yes.
 21 **Q** And you testified earlier regarding
 22 an injury to your back that occurred sometime in
 23 2008. Do you recall that?
 24 **A** Yes.

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1 **Q** Are you claiming a disability based
 2 on any injury related to the 2008 back injury?
 3 **A** No.
 4 **Q** All right. There's also a reference
 5 in the record to narcolepsy and some sleep issues?
 6 **A** Yes.
 7 **Q** Okay. Are you claiming any
 8 disability based on narcolepsy or any sort of
 9 sleep-related issues?
 10 **A** No.
 11 **Q** All right. There's also a reference
 12 in the record to a diagnosis of anxiety as well
 13 as some type of examination that took place on
 14 January 21, 2015, reference the anxiety. At this
 15 time are you familiar with that?
 16 **A** No. Not January 21st.
 17 **Q** Would you agree that you've been
 18 diagnosed with anxiety?
 19 **A** Yes. In 2006.
 20 **Q** In 2006. Are you still receiving
 21 treatment for it?
 22 **A** It's controlled by medication.
 23 **Q** Okay. Are you claiming a mental
 24 disability pension based on the anxiety?

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1 **A** No.
 2 **Q** Okay. With respect to your left
 3 shoulder condition, what incident or incidents
 4 specifically are you claiming to be the cause of
 5 your left shoulder injury?
 6 **A** I did not notice any pain to my
 7 shoulder until installing the gear lockers.
 8 **Q** So --
 9 **A** I had throbbing to the back from the
 10 fall that did not carry over until -- I didn't
 11 have -- that faded after about 10 minutes. And I
 12 continued with my day. There was nothing wrong
 13 until installing the gear lockers.
 14 **Q** So is it your testimony that the fall
 15 in the parking lot is not the cause of your
 16 alleged disability?
 17 **A** I can't say whether it is. I don't
 18 know if it's a contributing factor. The doctors
 19 couldn't say if it was a contributing factor.
 20 **Q** What about with respect to the
 21 installation of the lockers?
 22 **A** That was definitely a trigger at least.
 23 **Q** Okay. And then I think you gave some
 24 testimony regarding responding to some type of

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1 EMS call, correct?
 2 **A** Uh-huh.
 3 **Q** Are you alleging that something occurred
 4 during that call that caused or contributed to
 5 your injury?
 6 **A** Wearing my bunker gear.
 7 **Q** Is there anything else?
 8 **A** No.
 9 **Q** So those three incidents?
 10 **A** Yes.
 11 **Q** Okay. So your shift started on
 12 December 28, 2013, correct?
 13 **A** Yes.
 14 **Q** All right. And it begins at 7 o'clock
 15 in the morning, correct?
 16 **A** Yes.
 17 **Q** So the morning of December 28, 2013,
 18 did you wake up at your home?
 19 **A** Yes.
 20 **Q** Okay. And then you prepared to get
 21 ready for your shift, correct?
 22 **A** Uh-huh. I leave all my uniforms and
 23 everything at the firehouse, so I come to the
 24 station in street clothes.

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- 1 **Q** Okay.
- 2 **A** So I get to the station early enough
- 3 to get in my uniform and be ready.
- 4 **Q** Because you have to be ready at 7:00 a.m.
- 5 sharp, correct?
- 6 **A** Yes.
- 7 **Q** Okay. Is there any written rule or
- 8 regulation of the fire department that requires a
- 9 firefighter to keep their uniform at the firehouse?
- 10 **A** No.
- 11 **Q** Okay. So can a firefighter keep his
- 12 or her uniform at home and get dressed at home
- 13 and then come to the firehouse and start their
- 14 shift?
- 15 **A** Yes.
- 16 **Q** Okay. And are you familiar with
- 17 firefighters who do that?
- 18 **A** Yes.
- 19 **Q** And then there are firefighters like
- 20 yourself who keep their clothes at the firehouse
- 21 and get up, come to the firehouse early and then
- 22 get dressed?
- 23 **A** Yes.
- 24 **Q** Okay.

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- 1 **A** We also -- if we get to the firehouse
- 2 early, we also jump calls for the off-going
- 3 shift. So if a call were to come in at 6:42 and
- 4 we're there and ready, we also jump those calls.
- 5 **Q** Is there any written rule or
- 6 regulation that requires you to come in early
- 7 before your shift and to jump calls?
- 8 **A** No.
- 9 **Q** Is there any municipal ordinance that
- 10 requires you to come in early to your shift and
- 11 to jump calls?
- 12 **A** No.
- 13 **Q** If you're here early, can you elect
- 14 not to jump a call?
- 15 **A** Yes.
- 16 **Q** So you get up in the morning at your
- 17 home which is in Bolingbrook on December 28,
- 18 2013, right?
- 19 **A** Uh-huh.
- 20 **Q** Okay. And you drive to fire station
- 21 No. 2, right?
- 22 **A** Yes.
- 23 **Q** All right. How far is it from your
- 24 home to fire station No. 2?

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- 1 **A** About two, two and a half miles.
- 2 **Q** How long did it take you to drive on
- 3 that particular day?
- 4 **A** Maybe ten minutes. Not even ten
- 5 minutes. Five minutes.
- 6 **Q** You pull into the parking lot at the
- 7 fire station, correct?
- 8 **A** Uh-huh. Yes.
- 9 **Q** And you park your personal vehicle in
- 10 a parking space at the fire station, correct?
- 11 **A** Yes.
- 12 **Q** And what type of vehicle was it?
- 13 **A** Toyota Four Runner.
- 14 **Q** Still have the same vehicle?
- 15 **A** Yes.
- 16 **Q** And this vehicle has some type of
- 17 running boards on it, is that correct?
- 18 **A** Uh-huh. Yes.
- 19 **Q** And I take it that on this day it was
- 20 cold outside and some ice had developed during
- 21 the night, is that correct?
- 22 **A** Yes.
- 23 **Q** Okay. And you arrived at fire
- 24 station No. 2 at approximately 6:40 a.m., correct?

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- 1 **A** Yes.
- 2 **Q** All right. Did you start to exit
- 3 your vehicle, right?
- 4 **A** Yes.
- 5 **Q** And while you're exiting the vehicle,
- 6 you slip on a patch of black ice, is that correct?
- 7 **A** Yes.
- 8 **Q** Okay. And you would agree that the
- 9 slip and fall occurred at approximately 6:40 a.m.
- 10 on December 28, 2013?
- 11 **A** Yes.
- 12 **Q** So as you fall, are you next to the
- 13 Bronco?
- 14 **A** Four Runner?
- 15 **Q** I'm sorry. Four Runner.
- 16 **A** I fall on it. I'm getting out. As I
- 17 step out onto the parking lot is when I slipped
- 18 and I land on my car. I land on the -- so I
- 19 don't even get like both feet out. They come out
- 20 from under me before I can --
- 21 **Q** Your feet come out from underneath
- 22 you and you land on your left shoulder, correct?
- 23 **A** The back of it.
- 24 **Q** Okay. And does the left shoulder

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1 also hit the running board of the vehicle?
 2 **A** That's where I -- yes. That's where.
 3 **Q** Okay.
 4 **A** Before I hit the ground, it hit
 5 like -- I landed --
 6 **Q** The left shoulder hit the running
 7 board and then you hit the ground?
 8 **A** Uh-huh. Yes.
 9 **Q** At any time did you try to reach out
 10 with one of your arms to stop your fall?
 11 **A** No. I fell backwards.
 12 **Q** Okay. Now, when you fell and struck
 13 your shoulder, did you experience any immediate
 14 pain?
 15 **A** The throbbing to the back of my shoulder.
 16 **Q** So there was some sort of sensation
 17 in your left shoulder, would you agree with that?
 18 **A** Yes.
 19 **Q** It was a sensation that had not been
 20 there prior to the fall?
 21 **A** Correct.
 22 **Q** Did you ever report to any medical
 23 provider that you felt pain in your shoulder
 24 immediately following the fall in the parking lot?

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1 **A** If you -- the throbbing, yes. I
 2 would say that that was reported to the doctors.
 3 **Q** Did you ever report immediate pain to
 4 your left shoulder to any medical provider, that
 5 you experienced pain immediately after you fell
 6 in the parking lot?
 7 **A** Yes.
 8 **Q** After you fell, did you then get up
 9 and go into the fire station?
 10 **A** Yes.
 11 **Q** And at that time when you entered the
 12 fire station and you were getting ready for your
 13 shift, what were you noticing about your shoulder?
 14 **A** It -- the pain and throbbing went
 15 away after about 10 minutes. So when we were --
 16 before -- by the start of my shift, I didn't have
 17 any pain.
 18 **Q** The pain had subsided completely?
 19 **A** Yes.
 20 **Q** Did you ever tell any medical
 21 provider that the pain has subsided completely in
 22 your shoulder after you fell and struck it?
 23 **A** Yes.
 24 **Q** Who did you tell?

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1 **A** All of them.
 2 **Q** So all of your medical providers, all
 3 the ones that are listed in Pension Board's
 4 Exhibits 1 through 19?
 5 **A** Yes. The throbbing in my shoulder
 6 did not last more than 10, 15 minutes.
 7 **Q** And you told all the medical
 8 providers who were listed in pension board
 9 exhibits as well as applicant exhibits?
 10 **A** Yes.
 11 **Q** Okay. All right. Would you agree
 12 that you did not report the fall at 7:00 a.m.
 13 when your shift started?
 14 **A** No. I -- no sooner did I get to the
 15 door of the firehouse did Lieutenant Pech fall on
 16 the ice as well. So we both fell. And I had
 17 mentioned to him we should put it in the daily
 18 log that we both fell on the black ice.
 19 **Q** Okay. And when did that discussion
 20 take place?
 21 **A** Around the dining room table probably
 22 about 7:00 a.m.
 23 **Q** All right. Between 6:40 a.m. and
 24 7:00 a.m., what were you doing after you fell,

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1 after you got up from the fall?
 2 **A** Went in, got dressed, got into my
 3 uniform. And I probably checked my e-mail, my
 4 work e-mail and sat around the front -- around
 5 the dining room table with the other crew.
 6 **Q** Okay. At some time during that
 7 shift, you start to install some gear lockers, is
 8 that correct?
 9 **A** Yes.
 10 **Q** Okay. And what did you notice about
 11 your shoulder while you were installing the gear
 12 lockers?
 13 **A** It got increasingly achy and weak.
 14 **Q** Would you say that the pain increased?
 15 **A** Yes.
 16 **Q** Would you say the throbbing increased?
 17 **A** The pain to my shoulder was the front
 18 of my shoulder, not from where I landed on my
 19 fall. I didn't have throbbing to the front of my
 20 shoulder. It was a very strong dull ache,
 21 diffuse ache and weakness or like a fatigue type
 22 feeling that increased throughout the afternoon.
 23 **Q** You also wrote in your disability
 24 application that we caught an emergency call.

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1 During these activities, I noticed some pain and
2 tightness. Was driving medic 2 and was in all of
3 my bunker gear. While responding to the call, my
4 left arm was extremely weak and achy. Do you
5 recall writing that?

6 **A** Yes.

7 **Q** Okay. So is that the third incident
8 that you're -- you testified about today?

9 **A** Yes.

10 **Q** And so did you develop more pain
11 while you were driving this particular ambulance?

12 **A** Yes. More -- I think the more
13 significant that I felt was the inability to lift
14 my arm was the biggest. I couldn't --

15 **Q** Would you say that your left arm was
16 getting worse throughout the day?

17 **A** Yes.

18 **Q** All right. At some point after you
19 start your shift, you reported your injury,
20 correct?

21 **A** Yes.

22 **Q** And who did you report the injury to?

23 **A** My partner, Joe Jay.

24 **Q** When was that?

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1 **A** In the afternoon, probably around
2 maybe 2 when we were coming back from the
3 emergency call.

4 **Q** And what did you tell your partner?

5 **A** I couldn't lift my arm. That it was
6 achy and weak.

7 **Q** And did you tell him how you had
8 injured your arm?

9 **A** No. I didn't know. Like I still
10 don't know the --

11 **Q** The exact cause of your injury?

12 **A** Yes.

13 **Q** I mean, is it fair to say you don't
14 know the exact cause of your injury?

15 **A** Yes.

16 **Q** Did you also tell a Lieutenant Pech --

17 **A** Pech.

18 **Q** -- Pech, P-e-c-h, about your injury?

19 **A** Yes. We pulled over into the hotel
20 parking lot or -- yeah, I think it was a hotel
21 parking lot and told him. He was in engine 2.
22 We were in medic 2.

23 **Q** And what did you report to Lieutenant
24 Pech?

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1 **A** That I couldn't lift my arm and I was
2 in a lot of pain and he ordered me to go to the
3 hospital.

4 **Q** Have you seen a document called form
5 45 that was filled out with respect to your
6 shoulder injury?

7 **A** Form 45. I don't know.

8 **Q** It's on page 2419 of the record.

9 **A** Yes.

10 **Q** Have you seen that document before?

11 **A** Yes.

12 **Q** Okay. When was -- when did you first
13 see this document?

14 **A** Probably at least six months after my
15 injury.

16 **Q** And in what context did you view the
17 document six months after your injury?

18 **A** To give to my workers' comp attorney.

19 **Q** Okay. Did you read the document?

20 **A** Yes.

21 **Q** All right. And then turning to the
22 next page, 2420, supervisor's investigation report.

23 **A** Yes.

24 **Q** Have you ever seen that document before?

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1 **A** Yes.

2 **Q** And this document was completed by
3 Lieutenant Pech, correct?

4 **A** Yes.

5 **Q** This is who you reported your injury to?

6 **A** Yes.

7 **Q** Okay.

8 **A** I did not see this until at least six
9 months after the injury as well.

10 **Q** Again six months after the injury?

11 **A** Yes.

12 **Q** Okay. In looking at both documents,
13 both documents only mention that you slipped on
14 ice and hit your shoulder --

15 **A** Uh-huh.

16 **Q** -- in the parking lot. Would you
17 agree with that?

18 **A** Yes.

19 **Q** All right. Neither document mentions
20 installing lockers, correct?

21 **A** Correct.

22 **Q** Neither document mentions responding
23 to any sort of an EMS call on December 28, 2013,
24 correct?

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1 **A** Correct.
 2 **Q** Okay. Do you know why that is?
 3 **A** They didn't -- they didn't talk to me
 4 when they filled these out.
 5 **Q** After you reviewed these documents,
 6 did you ever request that they be amended?
 7 **A** I didn't know I could do that.
 8 **Q** Okay. Ultimately you undergo an MRI
 9 on March 27, 2014, approximately, is that
 10 correct? I think it was your second MRI.
 11 **A** Is it March or May?
 12 **Q** Let me strike that. Ultimately you
 13 underwent an MRI that disclosed that you had a
 14 superior labral tear or SLAP tear, is that correct?
 15 **A** Yes.
 16 **Q** Okay. Did you go to the emergency
 17 room at approximately 2:30 p.m. on December 28,
 18 2013?
 19 **A** Yes.
 20 **Q** All right. What did you report to
 21 the ER staff with respect to how your injury
 22 occurred?
 23 **A** I told them how I slipped in the
 24 morning and then I also told them about

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1 installing the gear lockers and when wearing my
 2 bunker gear I couldn't lift my arm.
 3 **Q** Okay. And what did you report to the
 4 ER staff with respect to when your pain began in
 5 your left shoulder?
 6 **A** Depending on which pain. I had the
 7 throbbing. The throbbing ended. And then when I
 8 started installing the gear lockers, the ache in
 9 the front and the arm weakness.
 10 **Q** And did you report that to the ER
 11 staff?
 12 **A** As far as I can recall.
 13 **Q** Do you recall if you reported hanging
 14 the lockers on December 28, 2013?
 15 **A** I always in every single appointment.
 16 **Q** Did you report the emergency call on
 17 December 28, 2013?
 18 **A** Yes.
 19 **Q** Okay. Now, you were first examined
 20 by Dr. Paul Sauer on or about December 30th of
 21 2013, is that correct?
 22 **A** Yes.
 23 **Q** And what did you report to Dr. Sauer
 24 with respect to how your injury occurred?

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1 **A** Slip and fall on the ice. I had
 2 throbbing to the back of my shoulder. I was
 3 fine, went back into work, started hanging gear
 4 lockers. My arm became achy and heavy. Caught
 5 the fire call. Put my bunker gear on. And I
 6 couldn't lift my arm.
 7 **Q** And kind of the same question, what
 8 did you report to Dr. Sauer as to when your pain
 9 began in your left shoulder?
 10 **A** I had the throbbing on my scapula for
 11 five to ten minutes after the fall and then the
 12 achiness and the -- like the fatigue or weakness
 13 while installing the gear lockers.
 14 **Q** Dr. Sauer took X-rays of your left
 15 shoulder, would you agree with that?
 16 **A** I don't recall X-rays.
 17 **Q** Do you recall ever undergoing X-rays
 18 of your left shoulder?
 19 **A** At the ER.
 20 **Q** At the ER?
 21 **A** Yes.
 22 **Q** Is it fair to say that there were
 23 no -- there were no broken bones, correct?
 24 **A** Correct.

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1 **Q** Okay. And it was Dr. Sauer who
 2 started you on this course of physical therapy,
 3 is that correct?
 4 **A** Yes.
 5 **Q** And the initial physical therapy ran
 6 from January 24, 2014, until June 6, 2014, is
 7 that correct?
 8 **A** Sounds correct.
 9 **Q** All right. How often did you attend
 10 physical therapy in that first course?
 11 **A** Three times a week.
 12 **Q** And did you do an initial intake with
 13 the physical therapist?
 14 **A** Yes.
 15 **Q** And what did you report to this
 16 physical therapist with respect to how your
 17 injury occurred?
 18 **A** I had slipped on ice and I was
 19 hanging gear lockers and my arm became weak. We
 20 got the call and I couldn't lift my arm.
 21 **Q** All right. So you consistently
 22 reported those three incidents to all of the
 23 medical providers as well as your physical
 24 therapist, is that fair to say?

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1 **A** Yes.

2 **Q** Okay. Did you miss any physical
3 therapy sessions?

4 **A** Yes. And I would reschedule them so
5 I still had three in a week.

6 **Q** Okay. Did you find that the physical
7 therapy improved your condition in any way?

8 **A** Yes.

9 **Q** How so?

10 **A** It increased -- initially it
11 increased my strength until I had the relapse of
12 pain.

13 After surgery, it increased my range
14 of motion until I maxed out. But it would also
15 help control the pain because since I've been off
16 of therapy the pain has greatly worsened. My
17 range of motion still hasn't changed. It's
18 reached its max. But the therapy got me to that
19 max.

20 **Q** Dr. Sauer looks like he last examined
21 you at the end of March in 2014, is that correct?

22 **A** Yes.

23 **Q** All right. And about that time, did
24 he administer the first cortisone injection to

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1 your shoulder?

2 **A** Yes.

3 **Q** All right. Can you describe that
4 procedure for the board?

5 **A** It's very painful. They inject --
6 they inject into your shoulder joint into the --
7 like the capsule area the cortisone. They also
8 have an anesthetic mixed in with the cortisone to
9 help ease some of the pain from it immediately.
10 When that wears off, it's quite painful. You
11 can't really do much after it.

12 **Q** What effect if any did the injection
13 have on your condition? Did you think it
14 improved it at all or no?

15 **A** No.

16 **Q** You stopped treatment with Dr. Sauer
17 and started treatment with Dr. Marra, correct?

18 **A** Yes.

19 **Q** And that was your choice?

20 **A** Yes.

21 **Q** You just felt as though things
22 weren't going well with Dr. Sauer so you wanted a
23 second opinion, is that fair to say?

24 **A** Yes.

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1 **Q** Okay. Dr. Marra looks like he first
2 examined you at the end of March of 2014, correct?

3 **A** Yes.

4 **Q** And again with respect to Dr. Marra,
5 did you report that you believed that your injury
6 was caused by the fall in the parking lot
7 installing the lockers as well as going on the
8 particular EMS call?

9 **A** Yes.

10 **Q** And in terms of when your pain began,
11 what did you report to Dr. Marra with respect to
12 that issue?

13 **A** Other than the throbbing, it began
14 when I was hanging the lockers.

15 **Q** Dr. Marra ultimately recommended that
16 you undergo surgery, correct?

17 **A** Yes.

18 **Q** And you underwent that surgery?

19 **A** Yes.

20 **Q** Before that surgery, he had
21 prescribed another cortisone injection May 1,
22 2014, correct?

23 **A** Yes.

24 **Q** Okay. And this was I think a little

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1 different in that it was an intraarticular
2 cortisone injection. Do you recall that?

3 **A** Yeah. He told me it was going to be
4 placed in a different position than where
5 Dr. Sauer administered his.

6 **Q** What relief if any did this injection
7 provide?

8 **A** None.

9 **Q** Now, after this steroid injection,
10 you're ultimately discharged from physical
11 therapy in June of 2014, correct?

12 **A** Yes.

13 **Q** And what's the condition of your
14 shoulder at that time?

15 **A** I couldn't lift really more than 10
16 to 20 pounds depending on the action and how I
17 was carrying it. I was having pain. The pain
18 comes down the front of my left shoulder into
19 like the bicep area and down into like the crease
20 of my left shoulder. And I still had weakness
21 and pain coming across into my clavicle area.

22 **Q** You undergo the surgery July 2, 2014,
23 correct?

24 **A** Yes.

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1 **Q** Okay. Dr. Marra performed the surgery?
 2 **A** Yes.
 3 **Q** All right. In just kind of laymen's
 4 term for us nondoctors up here, can you kind of
 5 describe what Dr. Marra did to repair your
 6 shoulder, if you know?
 7 **A** He anchored the cartilage into my
 8 bone. So they're drilling into the bone to keep
 9 the cartilage stable, I guess.
 10 **Q** Okay. After the surgery, how did
 11 your shoulder feel?
 12 **A** Excruciating. Painful.
 13 **Q** Did it ever improve?
 14 **A** Not to preinjury or really -- no.
 15 **Q** Okay. Following the surgery, you
 16 began a second course of physical therapy, correct?
 17 **A** Yes.
 18 **Q** And that's at the same ATI facility?
 19 **A** Yes.
 20 **Q** And this second course of physical
 21 therapy ran from January 29, 2014, through
 22 January 23, 2015, is that correct?
 23 **A** Yes.
 24 **Q** And did you notice any improvement

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1 during the second course of physical therapy?
 2 **A** Well, there had to have been
 3 improvement from where I was from surgery because
 4 after surgery you start from scratch. But there
 5 was no further improvement from my -- to --
 6 better than my presurgery.
 7 **Q** Did you ultimately undergo another
 8 MRI after your surgery?
 9 **A** Yes.
 10 **Q** Did that take place in December of 2014?
 11 **A** Yes.
 12 **Q** And why did you end up undergoing a
 13 third MRI?
 14 **A** I was still having significant pain.
 15 He wanted to make sure that the surgical site was
 16 still the way it's supposed to be, to see if
 17 there were any other additional issues.
 18 **Q** Did you discuss the MRI results with
 19 Dr. Marra?
 20 **A** Uh-huh.
 21 **Q** And what did Marra recommend after
 22 you underwent this third MRI?
 23 **A** He wanted to give me another
 24 cortisone injection.

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1 **Q** Did you undergo a third cortisone
 2 injection?
 3 **A** Actually wait. Actually, no, that
 4 wasn't right. Because I had -- is that the test
 5 in -- because I had one last year too. Did you
 6 say 2014 or '15?
 7 **Q** 2014.
 8 **A** '14. No. He didn't want to do a
 9 cortisone injection then. We were going to
 10 continue physical therapy.
 11 **Q** Okay. There's a notation on page 728
 12 of the record -- I'll wait for your counsel to
 13 get a copy. So this is a -- are you there, Tom?
 14 So this a physical therapy record on
 15 page 728. Do you see under treatment notes
 16 halfway down and then subjective?
 17 **A** Yes.
 18 **Q** Okay. Patient reports feeling the
 19 same, feeling more soreness today and is to have
 20 the arthrogram tomorrow and IME later today. Do
 21 you see that?
 22 **A** Yes.
 23 **Q** So would you agree an IME is an
 24 independent medical examination, correct?

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1 **A** Yes.
 2 **Q** The pension board sent you to three
 3 IMEs, correct?
 4 **A** Yes.
 5 **Q** There's a reference here to another IME?
 6 **A** Yes.
 7 **Q** Did you undergo another IME reference
 8 your left shoulder injury?
 9 **A** That was -- yes. In December 2014.
 10 It was through workers' comp I think who sent me.
 11 **Q** So this is a workers' compensation IME?
 12 **A** Yes.
 13 **Q** Do you know who that doctor was?
 14 **A** I don't remember.
 15 **Q** Okay. But you did undergo that one --
 16 **A** It was out in St. Charles I think.
 17 **Q** You underwent that one IME in
 18 addition to the pension board's three?
 19 **A** Yes.
 20 **Q** Have there been any other IMEs
 21 besides that?
 22 **A** No.
 23 **Q** You're ultimately discharged from
 24 physical therapy on January 23, 2015, correct?

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1 **A** Yes.
 2 **Q** Yes?
 3 **A** Yes.
 4 **Q** Okay. Have you heard of something
 5 called work conditioning?
 6 **A** Yes.
 7 **Q** Okay. Did you ever undergo work
 8 conditioning with respect to your left shoulder?
 9 **A** No.
 10 **Q** You have not?
 11 **A** No.
 12 **Q** And you ultimately underwent the
 13 functional capacity evaluation on February 2,
 14 2015, correct?
 15 **A** Yes.
 16 **Q** Would you agree that on February 19,
 17 2015, Dr. Marra found that you had reached
 18 maximum medical improvement?
 19 **A** Yes.
 20 **Q** And he had imposed restrictions
 21 consistent with the FCE, correct?
 22 **A** Yes.
 23 **Q** And is it fair to say that since
 24 December 28, 2013, you have never worked full and
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1 unrestricted firefighting duties for the village
 2 of Bolingbrook?
 3 **A** Correct.
 4 **Q** And it's been your testimony today
 5 that you feel that you're physically incapable of
 6 performing full and unrestricted firefighting
 7 duties, correct?
 8 **A** Yes.
 9 **Q** On a scale of 1 to 10, 10 being the
 10 worst possible pain, 1 is I guess me just sitting
 11 here, what's your pain as we sit here today?
 12 **A** 5.
 13 **Q** A 5. And in the past month, what's
 14 the worst your pain has been on a scale of 1 to 10?
 15 **A** 9.
 16 **Q** What's the best that it's been?
 17 **A** 2.
 18 **Q** Is there any fire department rule or
 19 regulation that requires a firefighter to drive
 20 himself or herself to work for their shift?
 21 **A** No.
 22 **Q** Okay. So a spouse could drop off a
 23 firefighter for his or her shift, correct?
 24 **A** Yes.
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1 **Q** You could take public transportation,
 2 correct?
 3 **A** Yes.
 4 **Q** Okay. You just have to be there
 5 ready to go at 7:00 a.m., correct?
 6 **A** Yes.
 7 **Q** All right. You testified regarding
 8 this parking lot at fire station No. 2. Do you
 9 recall that?
 10 **A** Yes.
 11 **Q** And I was looking at kind of an
 12 overhead map of it. It seems as though there are
 13 about six spots on the south side, the back side
 14 of the fire station. Would you agree with that?
 15 **A** Yes.
 16 **Q** And then on the west side, there
 17 looks like there's about ten parking spots on
 18 that west side, correct?
 19 **A** Yes.
 20 **Q** Okay. And you testified that the
 21 back area is considered a staff parking lot?
 22 **A** Yes.
 23 **Q** Is there any sign that designates
 24 that those parking spots are for firefighters or
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1 fire department staff only?
 2 **A** No.
 3 **Q** Is there any rule or regulation
 4 indicating as to where firefighters are required
 5 to park when they come to the fire department?
 6 **A** No.
 7 **Q** All right. Are you aware of any
 8 municipal ordinance that dictates where
 9 firefighters are to park when they go to the fire
 10 department to work their shift?
 11 **A** No.
 12 **Q** I'd like to discuss the -- or ask you
 13 some questions regarding the pension board's
 14 three IMEs, okay?
 15 **A** Okay.
 16 **Q** The first one is Dr. Garelick,
 17 G-a-r-e-l-i-c-k. Do you recall that examination?
 18 **A** Yes.
 19 **Q** And did Dr. Garelick examine your
 20 shoulder?
 21 **A** Yes.
 22 **Q** Have you read Dr. Garelick's report?
 23 **A** Yes.
 24 **Q** Did Dr. Garelick take your medical
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1 history?
 2 **A** Yes.
 3 **Q** Did he ask you questions regarding
 4 your injury?
 5 **A** Yes.
 6 **Q** Did you tell him about your physical
 7 condition?
 8 **A** Yes.
 9 **Q** Did you tell him about how you
 10 believe that you injured your shoulder?
 11 **A** Yes.
 12 **Q** And did you tell him that you believe
 13 that it was these three incidents that we talked
 14 about throughout today's hearing?
 15 **A** Yes.
 16 **Q** And he examined your shoulder, you
 17 would agree with that?
 18 **A** Yes.
 19 **Q** How long did Dr. Garelick's examination
 20 last?
 21 **A** He was longer than the others because
 22 he had me take an X-ray while I was there. He
 23 had X-ray in his office. But one on one with
 24 him, it was between 10 and 20 minutes.

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1 **Q** Okay. Do you recall being examined
 2 by Dr. Primus?
 3 **A** Yes.
 4 **Q** P-r-i-m-u-s. And did Dr. Primus take
 5 your medical history?
 6 **A** Yes.
 7 **Q** Did you tell Dr. Primus about how you
 8 believe that you injured your shoulder?
 9 **A** Yes.
 10 **Q** Did you tell him about the three
 11 incidents?
 12 **A** Yes.
 13 **Q** Did you tell Dr. Primus about how
 14 your left shoulder felt?
 15 **A** Yes.
 16 **Q** Did you tell him about the symptoms
 17 you were experiencing in your left shoulder?
 18 **A** Yes.
 19 **Q** Did --
 20 **A** I even called him afterwards on my
 21 way home because my arm went dead weight.
 22 **Q** I'm sorry. After the IME ends,
 23 you're driving home and you called Dr. Primus'
 24 office --

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1 **A** Uh-huh.
 2 **Q** -- to tell him that your arm went
 3 dead weight?
 4 **A** Yes. And they suggested me call
 5 my -- I was giving it to let him know and they
 6 suggested me call my personal surgeon to follow
 7 up with any other treatment.
 8 **Q** Is that Dr. Marra?
 9 **A** Yes.
 10 **Q** Did you call Dr. Marra?
 11 **A** No.
 12 **Q** Why not?
 13 **A** Because that's my everyday -- I was
 14 letting him know like because of his exam, his
 15 testing my range of motion, any effort -- after
 16 every single exam, my arm was dead weight for
 17 several hours afterwards.
 18 **Q** Is it fair to say your arm was dead
 19 weight then after Dr. Garelick's exam and
 20 Dr. Tu's exam?
 21 **A** Uh-huh. Dr. Primus was my first one
 22 that I saw.
 23 **Q** Okay.
 24 **A** And that's why.

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1 **Q** Gotcha. How long did your arm remain
 2 dead weight after the examination?
 3 **A** Several hours.
 4 **Q** So that kind of then goes into my
 5 next question. Would you agree that Dr. Primus
 6 examined your left shoulder?
 7 **A** Yes.
 8 **Q** You mentioned that he was
 9 manipulating it, would you agree with that?
 10 **A** Yes.
 11 **Q** Testing the range of motion, those
 12 types of things?
 13 **A** Yes.
 14 **Q** Okay. Did you ever tell Dr. Primus
 15 that you initially injured your left shoulder
 16 while doing normal job duties as a firefighter?
 17 **A** Those words would never come out of
 18 my mouth.
 19 **Q** Would you agree that Dr. Primus'
 20 examination was similar to the examinations that
 21 were performed by Dr. Garelick, Dr. Tu, Dr. Marra,
 22 Dr. Sauer?
 23 **A** Yeah. Yes.
 24 **Q** How long did your examination with

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1 Dr. Primus last?
 2 **A** 10 to 20 minutes.
 3 **Q** So roughly the same amount of time as
 4 the one with Dr. Garelick?
 5 **A** Yes.
 6 **Q** All right. With respect to Dr. Tu,
 7 did Dr. Tu examine your shoulder?
 8 **A** Yes.
 9 **Q** This was your third IME?
 10 **A** Yes.
 11 **Q** It may have happened second, but
 12 that's the third of the IMEs, correct?
 13 **A** Uh-huh.
 14 **Q** Okay. Did Dr. Tu take your history?
 15 **A** Yes.
 16 **Q** And did you tell Dr. Tu how you --
 17 how your injury occurred?
 18 **A** Yes.
 19 **Q** Did you tell Dr. Tu about all three
 20 incidents that we've discussed here today?
 21 **A** Yes.
 22 **Q** And did Dr. Tu perform a physical
 23 examination of your shoulder?
 24 **A** Yes.

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1 **Q** And was the examination similar to
 2 the ones performed by the other doctors?
 3 **A** Yes.
 4 **Q** And how long did Dr. Tu's examination
 5 last?
 6 **A** 10 to 20 minutes.
 7 **Q** So roughly the same time as all of
 8 the other IMEs?
 9 **A** Yes.
 10 **Q** You last worked full and unrestricted
 11 fire duties on December 28, 2013, correct?
 12 **A** Yes.
 13 **Q** Okay. Have you continued to get paid
 14 by the village of Bolingbrook -- by the village
 15 of Bolingbrook since December 28, 2013?
 16 **A** Yes.
 17 **Q** Okay. Are you still getting 100
 18 percent of your salary attached to rank as we sit
 19 here today?
 20 **A** No. I'm getting workers' comp.
 21 **Q** So you are receiving 66 and
 22 two-thirds through workers' compensation?
 23 **A** Yes.
 24 **Q** All right. Do you know approximately

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1 when the 100 percent of your salary attached to
 2 rank stopped and the temporary total disability
 3 or TTD payments began?
 4 **A** January 2015, I think. I'm not sure.
 5 **Q** Okay. Your disability application
 6 mentions salary attached to rank of \$90,000. Do
 7 you know what your salary attached to rank was
 8 the date that you were removed from the village
 9 of Bolingbrook's payroll?
 10 **A** I don't recall. Between 86 and 90.
 11 **Q** Somewhere in that area?
 12 **A** Yes.
 13 **Q** Okay. And you testified that the
 14 village never offered you a permanent sworn light
 15 duty position in the fire department, correct?
 16 **A** Correct.
 17 **Q** Have you had any other employment
 18 since December 28, 2013?
 19 **A** No.
 20 **Q** Have any of your physicians
 21 recommended that you undergo any additional
 22 treatment with respect to your shoulder at this
 23 time?
 24 **A** Dr. Marra. He's referred me for an EMG.

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1 **Q** For an EMG?
 2 **A** Yes.
 3 **Q** Has the EMG been scheduled?
 4 **A** It is scheduled for Friday.
 5 **Q** Do you know where the EMG will take
 6 place?
 7 **A** Bolingbrook Hospital. The 24th.
 8 **Q** And what time?
 9 **A** 9:00 a.m.
 10 **Q** Has any physician indicated that you
 11 could undergo additional surgery or therapy that
 12 has a reasonable likelihood of returning you to
 13 full and unrestricted firefighting duty?
 14 **A** No.
 15 **Q** That's all I have for right now.
 16 So I'm going to open it up to the
 17 trustees. Thank you very much for your time.

EXAMINATION

19 BY MR. JOSTES:
 20 **Q** I just had one question. It's on
 21 page 656. Under treatment notes --
 22 **A** Uh-huh.
 23 **Q** It says working at the VA. Could you
 24 just explain --

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1 **A** Okay. That was actually volunteering
2 with the VFW. I'm a member of the VFW auxiliary.
3 We were -- we take plastic bags. We cut them
4 into -- we cut them lengthwise into loops. And
5 we loop them into plarn, plastic yarn. And some
6 of our members crochet that into mats for homeless
7 veterans.

8 So we were cutting and looping. And
9 after a while, I had to stop looping the bags
10 into -- and it's not working. It's the VFW, not
11 the VA.

12 **Q** Okay. That's what looping is?

13 **A** Uh-huh.

14 **Q** That's the only question I had.

15 EXAMINATION

16 BY MR. MORALES:

17 **Q** I have a couple questions. When you
18 fell, you described your legs going up from under
19 you and coming down with your shoulder on the
20 running board. Did you hit any other part of
21 your body on the car?

22 **A** My body went on -- my shoulder.

23 **Q** Just your shoulder hit the car?

24 **A** From -- I don't recall any other
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1 impacts or I don't recall I hit my head or
2 anything.

3 **Q** Were you holding onto anything when
4 you came down or were you just up in the air as
5 you described coming down?

6 **A** I was turning to get out of my car
7 and my feet went up and I just --

8 **Q** You were not hanging onto the door as
9 you were coming down?

10 **A** I could have. I could have been
11 like -- the side of the door like having my arm
12 there and then -- because I was pulling my bag
13 over the seat.

14 **Q** So you're not sure then?

15 **A** (Shaking head.)

16 **Q** You described also when after the
17 call you were in extreme pain or you were in pain
18 enough so that you had to stop and let your
19 lieutenant know.

20 **A** Yes.

21 **Q** And then you were able to drive
22 yourself to the hospital?

23 **A** I steered -- you can steer with one
24 arm.

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1 **Q** After your surgery, you also
2 mentioned that they did not recommend physical
3 therapy for four weeks after?

4 **A** Yes.

5 **Q** Do you know why?

6 **A** They wanted the -- they wanted the
7 anchors to take. They didn't want to risk them
8 coming lose or coming out.

9 **Q** So no type of physical therapy was
10 given for four weeks after the surgery?

11 **A** I was in my sling for the full 24
12 hours a day in my sling. And then after four
13 weeks, I wore the sling at night.

14 **Q** Were there any concerns about your
15 elbow with the sling being on 24 hours for that
16 many weeks?

17 **A** No.

18 **Q** Not at all?

19 **A** Not -- Dr. Marra didn't tell me --

20 **Q** Okay.

21 **A** -- he was worried about my elbow.

22 EXAMINATION

23 BY MR. SPINDEL:

24 **Q** Did you participate in any sports
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1 outside of the firehouse?

2 **A** I would run.

3 **Q** Just running?

4 **A** I played on the -- I participated in
5 the Berwyn softball tournament. Like softball
6 would be one day out of the year.

7 **Q** But any time around the incident?

8 **A** Just running.

9 **Q** Okay.

10 FURTHER EXAMINATION

11 BY MR. MORALES:

12 **Q** Couple more questions. When you were
13 at Platinum Ambulance, you said you were there
14 for a period of May -- I'm sorry -- March --

15 **A** March to May.

16 **Q** March to May.

17 **A** Uh-huh.

18 **Q** And during that period you were out
19 of work for about two weeks?

20 **A** Yes.

21 **Q** Due to an injury as well?

22 **A** Uh-huh.

23 **Q** And then after -- and then in '08,
24 there was another incident?

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1 **A** Yes. 2008.
 2 **Q** '08. How long were you off then?
 3 **A** Four months.
 4 **Q** Four months. Now, you also disclosed
 5 that the injections were not effective --
 6 **A** Right.
 7 **Q** -- after surgery?
 8 **A** Correct.
 9 **Q** So in essence after your surgery, you
 10 stated that the surgery was not successful
 11 because it only got worse?
 12 **A** Correct. Well, it didn't improve the
 13 presurgery, so, yes, I would agree it was not
 14 successful.
 15 **Q** That's all I have. Thank you.
 16 MR. GOODLOE: Any other questions?
 17 Okay. If there are no other questions --
 18 MR. GARZA: Not at this time.
 19 MR. GOODLOE: Okay. Redirect, Mr. Duda.
 20 REDIRECT EXAMINATION
 21 BY MR. DUDA:
 22 **Q** You mentioned answering one of the
 23 questions about anchors. What were you referring
 24 to?

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1 **A** What they drilled into my shoulder to
 2 secure the cartilage.
 3 **Q** So as you sit there today, are there
 4 anchors in your shoulder joint?
 5 **A** Yes.
 6 **Q** And those were put there by Dr. Marra
 7 on July 2, 2014?
 8 **A** Yes.
 9 **Q** You were asked a question about what
 10 you're receiving as pay and you indicated
 11 workers' compensation, is that true?
 12 **A** Yes.
 13 **Q** Showing you Applicant Exhibit 1.
 14 Could you tell the board what that is?
 15 **A** This is my current workers' comp pay
 16 that I'm currently receiving every two weeks.
 17 **Q** So that's a check for your workers'
 18 comp and it covers every second week?
 19 **A** Yes.
 20 **Q** And Mr. Goodloe asked you questions
 21 about the history that you gave to the various
 22 doctors and providers. Do you recall those
 23 questions?
 24 **A** Yes.

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1 **Q** I'm going to show you page 164 of the
 2 record and this appears to be a progress note
 3 from Paul Sauer from December 30, 2013. And I'd
 4 just like you to read the first paragraph and
 5 then I'm going to ask you some questions. Read
 6 it to yourself.
 7 **A** Okay.
 8 **Q** Okay. Does Dr. Sauer note your
 9 complaint about the pain becoming worse with the
 10 hanging of the lockers?
 11 **A** Yes.
 12 **Q** And then he says that -- and then you
 13 really noticed a lot of increased pain later. Do
 14 you know why Dr. Sauer didn't mention your
 15 driving the ambulance later?
 16 MR. GOODLOE: Objection. Speculation.
 17 BY MR. DUDA:
 18 **Q** Did you tell him about driving the
 19 ambulance and your arm?
 20 **A** Yes.
 21 **Q** But you clearly told him about the
 22 lockers, correct?
 23 **A** Yes. I told all of them.
 24 **Q** You were asked about what you told

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1 the examining physicians. Do you recall that?
 2 **A** Yes.
 3 **Q** And I'm calling your attention to
 4 page 2537 which appears to be a letter to
 5 Dr. Garelick from a Jerry Marzullo. And I'd like
 6 you to look at page 1, the single-spaced paragraph
 7 beginning with arrived at fire station 2.
 8 **A** Okay.
 9 **Q** Does that paragraph accurately describe
 10 what you've told the board here this afternoon?
 11 **A** Yes.
 12 **Q** And if any -- if Dr. Garelick didn't
 13 include the -- anything in his report other than
 14 your slipping and falling, do you know why that
 15 would be the case?
 16 MR. GOODLOE: Objection. Speculation.
 17 BY MR. DUDA:
 18 **Q** Anyway, this is a letter to
 19 Dr. Garelick dated November 18, 2015, correct?
 20 **A** Yes.
 21 **Q** And that was -- November 18, 2015,
 22 was before your examination?
 23 **A** Yes.
 24 **Q** If you recall. Calling your

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1 attention to page 2555. There's the same letter.
2 But this letter is directed to Gregory Primus, is
3 that correct?

4 **A** Yes.

5 **Q** When you reported to work at 6:40 in
6 the morning, did you in fact during your career
7 go on jump calls for the following shift?

8 **A** Yes.

9 **Q** Did anyone tell you that you shouldn't?

10 MR. GOODLOE: Objection. Hearsay.

11 MR. DUDA: That would be a direct
12 order.

13 I'm going to make an offer of proof.

14 MR. GOODLOE: Go ahead.

15 BY MR. DUDA:

16 **Q** As an offer of proof, did anyone ever
17 tell you you shouldn't do that?

18 **A** No. It was actually frowned upon if
19 you didn't.

20 **Q** How would you know that it was
21 frowned upon?

22 **A** Crew members would give you hell for
23 not going.

24 **Q** I have no further questions.

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1 MR. GOODLOE: Okay. Thank you very
2 much. Any other witnesses?

3 MR. DUDA: I have no other witnesses.

4 MR. GOODLOE: Okay.

5 MR. DUDA: Other than if we cross-examine
6 Dr. Primus.

7 MR. GOODLOE: Right. So that's the
8 issue that we have right now. I don't have any
9 witnesses for the Board right now. I mean,
10 something could change, Mr. Duda. I'm not
11 exactly sure. But what we need, No. 1, is to get
12 a date from Dr. Primus in terms of his deposition
13 or bringing him in to testify.

14 I suppose the pension board could go
15 into closed session pursuant to Section 2(c)(4)
16 of the Open Meetings Act to discuss evidence that
17 was taken in open session, but I'll be quite
18 honest with you I would rather not do that until
19 we have all of the evidence before the pension
20 board.

21 I think it would be more appropriate
22 to do it at that time rather than to go in and
23 talk about issues that we don't really have all
24 the evidence yet to talk about intelligently.

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1 So I propose that unless there's
2 anything else we would adjourn today's hearing.
3 And in the interim, Mr. Duda, you would get dates
4 from Dr. Primus and we would set up the deposition.

5 MR. DUDA: Can I call my office before
6 we disband and see if Dr. Primus has called?

7 MR. GOODLOE: Of course.

8 MR. DUDA: Because we have been
9 pursuing this for at least three weeks.

10 MR. GOODLOE: I have Dr. Primus on
11 another case. And he did get back to me with
12 dates. And those dates were in August and
13 September. So I would assume that there are
14 dates that are available in August or September.

15 He indicated to me that he did not have any dates
16 available in July.

17 MR. DUDA: Okay. You told me that
18 and I believed you -- still believe you. Let's
19 see if he has dates and we can agree on them now

20 and maybe pick a date. We can wait. Whatever --

21 MR. GOODLOE: Perfect. We'll go off
22 the record. You can call your office.

23 (WHEREUPON, there was a short
24 recess taken.)

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1 MR. GOODLOE: So let's go back on the
2 record.

3 Mr. Duda, have you had a chance to
4 reach out to your office with respect to
5 Dr. Primus' availability?

6 MR. DUDA: He has not given us dates,
7 but I'm told that now that we're going to do it
8 by evidence deposition the view is that his staff
9 would become much less rigid.

10 MR. GOODLOE: Okay. I think that
11 there's no reason why we can't get the evidence
12 deposition done sometime in August or September
13 at the very latest. So if --

14 MR. DUDA: Let's pick a date in
15 September.

16 MR. GOODLOE: To set the additional
17 hearing?

18 MR. DUDA: Uh-huh. It's up to you.

19 MR. GOODLOE: It's up to these guys
20 to be quite honest with you. Let's go off the
21 record again.

22 (WHEREUPON, discussion was had
23 off the record.)

24 MR. GOODLOE: So back on the record.

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1 All right. The pension board is not going to set
2 a new hearing date at this time, rather counsel
3 for the applicant is going to work with
4 Dr. Primus' office to determine when he is
5 available to testify in this matter and that
6 includes giving -- appearing telephonically if
7 necessary. That's fine.

8 So do you agree with that, Mr. Duda?

9 MR. DUDA: Yes.

10 MR. GOODLOE: All right. Very well.

11 I don't have anything else. Do you?

12 MR. DUDA: I'd just like -- I'm
13 cooperating to get his attendance, but I don't
14 want the record to reflect that Dr. Primus is my
15 witness. He was one of the three doctors chosen
16 by the Board.

17 MR. GOODLOE: Correct. You requested
18 the subpoena to bring him in. Correct.

19 Okay. If there's nothing else, no
20 questions from the Board, I just need a motion to
21 adjourn. Proofs remain open by the way. Okay.

22 MR. GARZA: So be it.

23 MR. SPINDEL: Second.

24 MR. BRAMWELL: Motion by Trini.

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1 STATE OF ILLINOIS)

2 COUNTY OF C O O K)

3 I, SHARON A. STUCKLY, a Certified
4 Shorthand Reporter of the State of Illinois, do
5 hereby certify that I reported in shorthand the
6 proceedings had at the hearing aforesaid, and
7 that the foregoing is a true, complete and
8 correct transcript of the proceeding of said
9 hearing as appears from my stenographic notes so
10 taken and transcribed under my personal
11 direction.

12
13 _____
14 Certified Shorthand Reporter

15
16 C.S.R. Certificate No. 84-1640.

17
18
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1 Seconded by Ron.

2 MR. GOODLOE: Any discussion?

3 All in favor.

4 (WHEREUPON, all Board Members
5 responded aye.)

6 MR. GOODLOE: All right. Thank you
7 very much, everybody.

8 (WHEREUPON, the proceedings
9 were recessed at 3:31 p.m.)

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